

UNITED STATES DISTRICT COURT		District <u>Southern District of Ohio</u>
Name of Movant <u>Maurice Juett</u>	Prisoner No. <u>03582-061</u>	Case No. <u>CB-1-02-074</u>
Place of Confinement <u>Petersburg (med) FCI po Box 90043 Petersburg, Va 23804</u>		
UNITED STATES OF AMERICA		v. <u>Maurice Juett</u> (name under which convicted)

## MOTION

- Name and location of court which entered the judgment of conviction under attack U.S. Potter  
Steward Court House 100 E 5th St Cincinnati, OH 45206
- Date of judgment of conviction January 23, '03
- Length of sentence 228 months
- Nature of offense involved (all counts) 21 USC 841(a)(1) poss with intent to Distribute  
(b)(1)(A)(iii) in Excess of 50 Grams  
18 USC 924(C)(1) poss. of a Fire arm During the Commission of a  
Drug Traff offense  
18 USC 924(C)(1) Poss of a Firearm During the Commission of a Drug  
traff offense  
18 USC 922(g)(1) and 924(a)(2) poss of a Firearm By a Convicted  
Felon.

5. What was your plea? (Check one)
- (a) Not guilty ☒
- (b) Guilty ☐
- (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

N/A

6. If you pleaded not guilty, what kind of trial did you have? (Check one)
- (a) Jury ☒
- (b) Judge only ☐

7. Did you testify at the trial?
- Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?
- Yes ☒ No ☐

FILED  
JAMES BONINI  
CLERK  
05 MAY 11 AM 11:23  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WEST DIV CINCINNATI

9. If you did appeal, answer the following:

- (a) Name of court US Court of Appeal 100<sup>th</sup> St Cincinnati Ohio 45206  
(b) Result AFFirmed #03-3214  
(c) Date of result 2/5/04

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court N/A  
(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(b) As to any second petition, application or motion give the same information:

(1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc.

Yes ☐

No ☒

(2) Second petition, etc.

Yes ☐

No ☒

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

**Caution:** If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

AO 243 (Rev. 2/95)

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: The trial court committed Reversible Error in not Granting a mistrial Because the Jury Saw me in Handcuffs

Supporting FACTS (state briefly without citing cases or law)

My 5th and 6th Amendment rights under the United States Constitution to a Fair trial were abrogated when the Jury Saw me in handcuffs (See Dyas v. Poole, 317 F.3d 934, 937 (9th Cir. 2003)). The 9th Cir held Prejudice is presumed when a jury sees a defendant in handcuffs and such action warrants vacating the conviction id (Citing Rhoden v Rowland, 172 F3d. 633 (9th Cir. 1999)).

B. Ground two: Attorney was ineffective by allowing the Court to admit insufficient reliable evidence

Supporting FACTS (state briefly without citing cases or law) Indetermining whether Maurice

Jouett was "Nine," the source for the sale, the attorney allowed district Judge admitted audio-tape evidence and permitted screen projection of audio-tape transcript for the jury to follow hearing of audio-tape conversation between ci and "Nine" id p 215. My attorney was ineffective for failing to file motion to exclude audio-tape

C. Ground three: Jury Never Found me guilty of Crack, This is in violation of my 5th and 6th Amendment right to a Jury Trial

Supporting FACTS (state briefly without citing cases or law) Jury Never found me Guilty

of Crack only Cocaine base See pg# 462 of Transcript Line 11

AO 243 (Rev. 2/95)

D. Ground four: Violation of my 6th Amendment right to Jury on Prior Convictions

Supporting FACTS (state *briefly* without citing cases or law) ~~Violation of my 6th~~ I

Continue to receive and being forced to serve Unconstitution al Sentences. My Sentences was illegally enhanced using my prior Convictions and the Jury Never found me guilty of having prior Convictions

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state *briefly* what grounds were not so presented, and give your reasons for not presenting them:

My Attorney failed to raise these issue when I requested him to do so

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☐

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing \_\_\_\_\_

(b) At arraignment and plea \_\_\_\_\_

(c) At trial \_\_\_\_\_

(d) At sentencing \_\_\_\_\_

- (e) On appeal William R. Gallagher / Pro se
- (f) In any post-conviction proceeding N/A
- (g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: N/A

(b) Give date and length of the above sentence: N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant petitioner relief to which he or she may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

5/3/05

(Date)

P. K. K. CASE MANAGER,  
Authorized by the Act of July 7, 1955,  
as amended, to administer oaths  
(18 U.S.C. § 4004).

Maurice J. H.  
Signature of Movant